

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF OREGON

3 PORTLAND DIVISION

4
5 UNITED STATES OF AMERICA,)
6 Plaintiff,) No. 3:18-cr-00319-JO-01
7 vs.)
8 MARK LEROY DENCKLAU,) August 31, 2018
9 Defendant.)
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13 TRANSCRIPT OF PROCEEDINGS

14 (Review of Detention)

15
16 BEFORE THE HONORABLE PAUL PAPAK

17 UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

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23 Court Reporter: Ryan White, RMR, CRR, CSR/CCR
24 United States District Courthouse
1000 SW 3rd Avenue, Room 301
Portland, Oregon 97204
25 (503) 326-8184

1 APPEARANCES
2

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1 (August 31, 2018; 2:01 p.m.)
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3 P R O C E E D I N G S
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5 THE COURT: Good afternoon, Ms. Bolstad.
6 MS. BOLSTAD: Thank you, Your Honor.
7 Leah Bolstad for the United States. The next matter
8 on your docket is United States versus Mark Leroy Dencklau, case
9 18-cr-319. He's the first defendant in this three-defendant
10 case.

11 Defendant is present. He's in custody represented by
12 counsel, Mr. Eklund. We're here for Mr. Dencklau's motion for
13 release pending trial.

14 The government filed a memorandum today, Your Honor.
15 My apologies for the lateness of the filing. I was on vacation
16 all of last week until Wednesday of this week.

17 The government agrees with pretrial services. We
18 recommend the detention of the defendant pending trial based on
19 the horrific nature of this offense -- it involves an interstate
20 kidnap and torture murder of a defendant -- of a victim -- and
21 defendant's release plan is not one that would satisfy the
22 statutory concern with having conditions that can fairly assure
23 the safety of the community and the defendant's appearance at
24 future court proceedings. So we ask for detention.

25 THE COURT: Thank you.

1 Mr. Eklund, are you prepared to proceed at a detention
2 hearing today?

3 MR. EKLUND: Actually, no, Your Honor. And I
4 apologize for not saying that up front.

5 But given what the pretrial report -- and there's a
6 lot of moving pieces in this case right now, and with
7 Mr. Dencklau's -- Mr. Dencklau's references, one of whom is off
8 the grid from last week -- which I didn't know when I set the
9 hearing -- until next week. So we'd ask to continue the matter
10 for three weeks if possible.

11 THE COURT: I'm happy to do that.

12 Let me just talk to you a bit about what I see here so
13 we can be more efficient.

14 I haven't made a final decision if I were presented
15 with the evidence, except that I could say the current proposal
16 for his living situation is not acceptable, period. I mean he's
17 not going to live with a Gypsy Joker, period. It's not going to
18 happen. And so at a minimum you would need to come up with a
19 living condition that pretrial could check on and finds
20 satisfactory.

21 Then there's a second big question which is the issues
22 raised by the government about -- somewhat about failure to
23 appear stemming back to Utah.

24 More concerning, perhaps, is dangerousness, nature of
25 the offense, questions of intimidation of witnesses. All of

1 that, I haven't heard everything, so I'm not prepared to make a
2 decision on that.

3 But I think it's wise to wait until you have a
4 satisfactory living place in mind approved by pretrial, and then
5 this can be presented in one lump sum to whoever the magistrate
6 judge is at that time.

7 So it might be -- it might be simpler, more efficient,
8 if I just deny your motion with leave to re-file and let you,
9 when you're ready, re-file it and ask for a hearing, or I could
10 continue the hearing and let you set a date -- talk to
11 Ms. Bolstad when she's available and you are and your witnesses
12 are available -- before a magistrate judge rather than pick a
13 date three weeks from now because I don't think you know
14 standing here that that's necessarily a good date for you.

15 How does that sound?

16 MR. EKLUND: I would prefer the continuance,
17 Your Honor. And if I could find out when I talk to this one
18 other reference -- and obviously we're not, you know, conceding
19 the facts as set forth by the government in their memo or the
20 significance of those facts. I am really prepared to litigate
21 that part of things.

22 But I take the Court's point well in terms of what the
23 plan is as of now, and we'd like to just develop that one piece,
24 and I expect that person back in town next week.

25 And I already talked to Ms. Bolstad about dates. So

1 any time the week of September 17th works for the defense. And
2 I think --

3 THE COURT: The 21st is three weeks. Do you want to
4 do the 21st at 1:30 before the duty magistrate judge, fine by
5 me. Or pick another date that week.

6 MS. BOLSTAD: I cannot do the 20th or the 21st. I
7 could do the --

8 THE COURT: You're on vacation again?

9 MS. BOLSTAD: Sorry?

10 THE COURT: I was asking are you on vacation again.

11 MS. BOLSTAD: Not a chance.

12 THE COURT: 19th?

13 MS. BOLSTAD: Yes, that works.

14 THE COURT: 19th?

15 MR. EKLUND: Please.

16 THE COURT: All right. Let's set it for the 19th of
17 September, 1:30 p.m., before the duty magistrate judge.

18 Who's duty in September? Is that Judge --

19 THE CLERK: I believe it should be Judge Beckerman.

20 THE COURT: Might be Judge Beckerman. I'm not sure.
21 But whoever it is, you'll know well in advance. So --

22 MR. EKLUND: Certainly.

23 THE COURT: -- September 19th, 1:30, and I'll continue
24 the motion so it won't be denied as moot or otherwise
25 denied -- you don't have to re-file, at least -- here on that,

1 and I'm assuming you'll both probably file some additional
2 information for whoever the duty judge is to address some of
3 those questions that I raised for that judge's consideration.

4 All right.

5 MR. EKLUND: Thank you, Your Honor.

6 MS. BOLSTAD: Thank you, Your Honor.

7 THE COURT: Anything else, then, today?

8 MR. EKLUND: That's all for today, Your Honor.

9 THE COURT: Thank you very much.

10 MR. EKLUND: Thank you.

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12 (The proceedings concluded at 2:06 p.m.)

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1 C E R T I F I C A T E
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I certify, by signing below, that the foregoing is a true and correct transcript of the record, taken by stenographic means, of the proceedings in the above-titled cause. A transcript without an original signature, conformed signature, or digitally signed signature is not certified.

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9 DATED this 28th day of September, 2018.
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RYAN WHITE
Registered Merit Reporter
Certified Realtime Reporter
Expires 9/30/2019
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